



# Care Standards Act 2000

## 2000 CHAPTER 14

### PART II

#### ESTABLISHMENTS AND AGENCIES

##### *Miscellaneous and supplemental*

#### **31 Inspections by persons authorised by registration authority**

- (1) The registration authority may at any time require a person who carries on or manages an establishment or agency to provide it with any information relating to the establishment or agency which the registration authority considers it necessary or expedient to have for the purposes of its functions under this Part.
- (2) A person authorised by the registration authority may at any time enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency.
- (3) A person authorised by virtue of this section to enter and inspect premises may—
  - (a) make any examination into the state and management of the premises and treatment of patients or persons accommodated or cared for there which he thinks appropriate;
  - (b) inspect and take copies of any documents or records (other than medical records) required to be kept in accordance with regulations under this Part, section 9(2) of the Adoption Act 1976, section 23(2)(a) or 59(2) of the 1989 Act or section 1(3) of the Adoption (Intercountry Aspects) Act 1999;
  - (c) interview in private the manager or the person carrying on the establishment or agency;
  - (d) interview in private any person employed there;
  - (e) interview in private any patient or person accommodated or cared for there who consents to be interviewed.
- (4) The powers under subsection (3)(b) include—

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- (a) power to require the manager or the person carrying on the establishment or agency to produce any documents or records, wherever kept, for inspection on the premises; and
  - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (5) Subsection (6) applies where the premises in question are used as an establishment and the person so authorised—
- (a) is a medical practitioner or registered nurse; and
  - (b) has reasonable cause to believe that a patient or person accommodated or cared for there is not receiving proper care.
- (6) The person so authorised may, with the consent of the person mentioned in subsection (5)(b), examine him in private and inspect any medical records relating to his treatment in the establishment.
- The powers conferred by this subsection may be exercised in relation to a person who is incapable of giving consent without that person's consent.
- (7) The Secretary of State may by regulations require the Commission to arrange for premises which are used as an establishment or for the purposes of an agency to be inspected on such occasions or at such intervals as may be prescribed.
- (8) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (9) Any person who—
- (a) intentionally obstructs the exercise of any power conferred by this section or section 32; or
  - (b) fails without a reasonable excuse to comply with any requirement under this section or that section,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **32 Inspections: supplementary**

- (1) A person authorised by virtue of section 31 to enter and inspect any premises may seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part.
- (2) A person so authorised—
  - (a) may require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 31 or this section;
  - (b) may take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (3) A person authorised by virtue of section 31 to inspect any records shall be entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.

- (4) The references in section 31 to the person carrying on the establishment or agency include, in the case of an establishment or agency which is carried on by a company, a reference to any director, manager, secretary or other similar officer of the company.
- (5) Where any premises which are used as an establishment or for the purposes of an agency have been inspected under section 31, the registration authority—
  - (a) shall prepare a report on the matters inspected; and
  - (b) shall without delay send a copy of the report to each person who is registered in respect of the establishment or agency.
- (6) The registration authority shall make copies of any report prepared under subsection (5) available for inspection at its offices by any person at any reasonable time; and may take any other steps for publicising a report which it considers appropriate.
- (7) Any person who asks the registration authority for a copy of a report prepared under subsection (5) shall be entitled to have one on payment of a reasonable fee determined by the registration authority; but nothing in this subsection prevents the registration authority from providing a copy free of charge when it considers it appropriate to do so.
- (8) Where the Secretary of State has specified regions in a direction made under paragraph 9 of Schedule 1, the reference in subsection (6) to offices is, in relation to premises in England which are used as an establishment or for the purposes of an agency, a reference to the Commission’s offices for the region in which the premises are situated.

### **33 Annual returns**

- (1) Regulations may require the person carrying on an establishment or agency to make an annual return to the registration authority.
- (2) Provision may be made by the regulations as to the contents of the return and the period in respect of which and date by which it is to be made.

### **34 Liquidators etc**

- (1) Regulations may—
  - (a) require any person to whom this section applies to give notice of his appointment to the registration authority;
  - (b) require any person to whom this section applies to appoint a person to manage the establishment or agency in question.
- (2) This section applies to any person appointed as—
  - (a) a receiver or manager of the property of a relevant company;
  - (b) the liquidator or provisional liquidator of a relevant company; or
  - (c) the trustee in bankruptcy of a relevant individual.
- (3) In this section—
  - “company” includes a partnership;
  - “relevant company” means a company which is registered under this Part in respect of an establishment or agency; and
  - “relevant individual” means an individual who is registered under this Part in respect of an establishment or agency.

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### **35 Death of registered person**

- (1) Regulations may—
  - (a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered under this Part in respect of an establishment or agency has died;
  - (b) require the personal representatives of a deceased person who was registered in respect of an establishment or agency to notify the registration authority of his death.
- (2) Regulations under subsection (1)(a) may in particular—
  - (a) provide for the establishment or agency to be carried on for a prescribed period by a person who is not registered in respect of it; and
  - (b) include provision for the prescribed period to be extended by such further period as the registration authority may allow.

### **36 Provision of copies of registers**

- (1) Subject to subsection (3), the registration authority shall secure that copies of any register kept for the purposes of this Part are available at its offices for inspection at all reasonable times by any person.
- (2) Subject to subsections (3) and (4), any person who asks the registration authority for a copy of, or of an extract from, a register kept for the purposes of this Part shall be entitled to have one.
- (3) Regulations may provide that subsections (1) and (2) shall not apply—
  - (a) in such circumstances as may be prescribed; or
  - (b) to such parts of a register as may be prescribed.
- (4) A fee determined by the registration authority shall be payable for the copy except—
  - (a) in prescribed circumstances;
  - (b) in any other case where the registration authority considers it appropriate to provide the copy free of charge.

### **37 Service of documents**

- (1) Any notice or other document required under this Part to be served on a person carrying on or managing, or intending to carry on or manage, an establishment or agency may be served on him—
  - (a) by being delivered personally to him; or
  - (b) by being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
- (2) For the purposes of section 7 of the Interpretation Act 1978 (which defines “service by post”) a letter addressed to a person carrying on or managing an establishment or agency enclosing a notice or other document under this Act shall be deemed to be properly addressed if it is addressed to him at the establishment or agency.
- (3) Where a notice or other document is served as mentioned in subsection (1)(b), the service shall, unless the contrary is proved, be deemed to have been effected on the third day after the day on which it is sent.

- (4) Any notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (5) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, without prejudice to subsection (2) above, the proper address of a person shall be—
  - (a) in the case of a secretary or clerk of a body corporate, that of the registered or principal office of that body;
  - (b) in the case of a partner of a firm, that of the principal office of the firm; and
  - (c) in any other case, the last known address of the person.

### **38 Transfers of staff under Part II**

- (1) The appropriate Minister may by order make a scheme for the transfer to the new employer of any eligible employee.
- (2) In this section—
  - “eligible employee” means a person who is employed under a contract of employment with an old employer on work which would have continued but for the provisions of this Part;
  - “new employer” means the registration authority;
  - “old employer” means a local authority or a Health Authority.

### **39 Temporary extension of meaning of “nursing home”**

In section 21 of the Registered Homes Act 1984 (meaning of nursing home)—

- (a) in subsection (1), after “(3)” there is inserted “and (3A)”;
- (b) in subsection (2), for “subsection (1) above” there is substituted “this section”;
- (c) in subsection (3)(e)(ii), “dental practitioner or” is omitted; and
- (d) after subsection (3) there is inserted—

“(3A) The definition in subsection (1) above does not include any premises used, or intended to be used, wholly or mainly by a dental practitioner for the purpose of treating his patients unless subsection (3B) or (3C) below applies.

(3B) This subsection applies if—

- (a) the premises are also used, or intended to be used, by that or another dental practitioner for the purpose of treating his patients under general anaesthesia; and
- (b) the premises are not used, or intended to be used, by any dental practitioner for the purpose of treating his patients under general anaesthesia—
  - (i) in pursuance of the National Health Service Act 1977; or
  - (ii) under an agreement made in accordance with Part I of the National Health Service (Primary Care) Act 1997.

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(3C) This subsection applies if the premises are used, or intended to be used, for the provision of treatment by specially controlled techniques and are not excepted by regulations under subsection (3)(g) above.”

**40 Temporary extension of meaning of “children’s home”**

In section 63(3)(a) of the 1989 Act (meaning of “children’s home”), for “more than three children at any one time” there shall be substituted “children”.

**41 Children’s homes: temporary provision about cancellation of registration**

(1) In paragraph 1(4) of Schedule 5 to the 1989 Act (voluntary homes and voluntary organisations)—

- (a) in paragraph (a), after “is not” there shall be inserted “, or has not been,”;
- (b) after “is” there shall be inserted “, or has been,”.

(2) In paragraph 2 of that Schedule, after sub-paragraph (5) there shall be inserted—

“(6) In relation to a home which has ceased to exist, the reference in sub-paragraph (4) to any person carrying on the home shall be taken to be a reference to each of the persons who carried it on.”

(3) In paragraph 3(3) of Schedule 6 to the 1989 Act (registered children’s homes), after “is being” there shall be inserted “and has been”.

(4) In paragraph 4 of that Schedule—

- (a) in sub-paragraph (3) after “is being” there shall be inserted “, or has been,”;
- (b) after sub-paragraph (4) there shall be inserted—

“(5) In relation to a home which has ceased to exist, references in this paragraph and paragraph 5(4) to the person, or any person, carrying on the home include references to each of the persons who carried it on.”

**42 Power to extend the application of Part II**

(1) Regulations may provide for the provisions of this Part to apply, with such modifications as may be specified in the regulations, to prescribed persons to whom subsection (2) or (3) applies.

(2) This subsection applies to—

- (a) local authorities providing services in the exercise of their social services functions; and
- (b) persons who provide services which are similar to services which—
  - (i) may or must be so provided by local authorities; or
  - (ii) may or must be provided by Health Authorities, Special Health Authorities, NHS trusts or Primary Care Trusts.

(3) This subsection applies to persons who carry on or manage an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, individuals mentioned in subsection (4).

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- (4) The individuals referred to in subsection (3) are those who provide services for the purpose of any of the services mentioned in subsection (2).